

WELLS COUNTY LOCAL COURT RULES

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LR90-TR-79-01

(ADOPTION OF DISTRICT 3 CASELOAD DISTRIBUTION RULE)

The District 3 Caseload Distribution Rule, a copy of which is set out below, is hereby adopted in Wells County.

DISTRICT 3 CASELOAD DISTRIBUTION RULE

WHEREFORE, on July 16, 1999, the Supreme Court of Indiana issued an Order for Development of Local Caseload Plans.

WHEREFORE, on September 2 1999, in an effort to comply with the Order of the Supreme Court, the majority of Judges in District 3 met to develop an equitable caseload management plan to diminish caseload disparity among the courts of said District.

NOW THEREFORE, by unanimous vote of the assembled Judges, the following Uniform Local Rule is submitted for adoption by each county located in District 3.

DEFINITIONS

An **“Over-Utilized County,”** according to the most recent Weighted Caseload Measure (WCLM), is a county in which the judicial officers are utilized at greater than the statewide average.

An **“Under-Utilized County,”** according to the most recent WCLM, is a county in which the judicial officers are utilized at twenty-six (26) or more percentage points below the statewide average.

An **“Other County,”** according to the most recent WCLM, is a county in which the judicial officers are utilized from twenty-five (25) percentage points below to the statewide average.

RULE

1. Whenever selection of a special judge is required under Trial Rule 76, Trial Rule 79(H) or any Local Rule adopted hereunder, this shall be the exclusive method for selection of said special judge.

2. In an “Over-Utilized County,” special judges shall be selected exclusively from a list of judicial officers presiding in courts in “Under-Utilized Counties.” To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in “Over-Utilized Counties,” based upon the 1998 WCLM, shall be as follows:

- a. Special judges serving Allen County shall be selected from the nine (9) judicial officers sitting in Adams, LaGrange, Steuben and Wells counties;
- b. Special judges serving DeKalb County shall be selected from the five (5) judicial officers sitting in LaGrange and Steuben counties;

- c. Special judges serving Huntington County shall be selected from the four (4) judicial officers sitting in Adams and Wells counties.

3. In an “Under-Utilized County,” special judges shall be selected exclusively from a list of judicial officers sitting in other “Under-Utilized Counties.” To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in “Under-Utilized Counties,” based on the 1998 WCLM shall be as follows:

- a. Special judges serving Adams County shall be selected from the other judicial officer sitting in Adams County and the two (2) judicial officers sitting in Wells County;
- b. Special judges serving LaGrange County shall be selected from the other judicial officer sitting in LaGrange County and the three (3) judicial officers sitting in Steuben County;
- c. Special judges serving Steuben County shall be selected from the other judicial officers sitting in Steuben County and the two (2) judicial officers sitting In LaGrange County;
- d. Special judges serving Wells County shall be selected from the other judicial officer sitting in Wells County and the two (2) judicial officers sitting in Adams County.

4. In an “Other County,” special judges will be selected from counties that are similarly situated. To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges, based upon the 1998 WCLM, shall be as follows:

- a. Special judges serving Noble County shall be selected from the other judicial officers sitting in Noble County and the two (2) judicial officers sitting in Whitley County;
- b. Special judges serving Whitley County shall be selected from the other judicial officer sitting in Whitley County and the three (3) judicial officers sitting in Noble County.

5. Each judge in every court of District 3 shall maintain a list of judges available to serve as special judge in his or her court. The list shall remain confidential to the judge and his or her designated staff. The method for selection of a special judge from the list shall be sequential, that is, from top to bottom, until each judicial officer has been selected. No judicial officer appearing on the list shall be selected more than once until all judicial officers have been selected.

6. The special judge selected hereunder shall have the sole discretion to transfer the proceeding under Trial Rule 79(M).

7. By requesting a special judge, the parties specifically waive:

- 1) Selection of a special judge under Trial Rule 79(D), Trial Rule 79(E) and Trial Rule 79(F), and
- 2) Any objection to the transfer of the proceeding under Trial Rule 79(M) if the special judge should order same.

8. Each special Judge who receives a case hereunder shall maintain a statistical record of the number, case type and disposition of each case received to quantify the additional caseload and shall report same to the Division of State Court Administration on a quarterly basis.

9. Each judge who assigns a special judge hereunder shall maintain a statistical record of the number and case type of each case assigned and shall report same to the Division of State Court Administration on a quarterly basis.

10. This rule applies only to selection of special judges in civil matters. It does not apply to the selection of special judges in criminal and juvenile matters.

11. The judges in District 3 shall meet on or before May 1 of each year to review the WCLM from the previous year, shall meet during the month of September in each year to review the impact of this Rule and, no later than October 1 of each year, shall adopt a rule for the ensuing year.

12. All previous local rules adopted by the judges in District 3 regarding selection of special judges in civil matters are repealed to the extent that they are inconsistent with this Rule.

LR90-CR2.2-01

Pursuant to Criminal Rule 2.2 of the Indiana Rules of Criminal Procedure, the Wells Circuit and Superior Courts do hereby adopt the following Joint Local Rule; repealing any local rules heretofore promulgated which are in conflict.

(A) CASE ASSIGNMENT

Subject to the provisions of Ind. Code § 33-5-4.5-9 permitting the transfer of cases between the courts, all cases wherein the most serious charge is a Class D Felony or greater shall be assigned to the Wells Circuit Court. All misdemeanor criminal cases shall be assigned to the Wells Superior Court; provided, however, that all Class D Felony Driving While Intoxicated or Operating With a Blood Alcohol Content of .08% or greater and all Class D or C Felony Habitual Traffic Violator cases shall be assigned to the Wells Superior Court.

(B) REFILEING AND SUBSEQUENT FILINGS

When the State of Indiana dismisses a case and chooses to re-file that case, the case shall be assigned to the court from which the dismissal was taken.

(C) REASSIGNMENT

Where a change of judge is granted pursuant to Ind. Crim. Rule 12(B) or an order of disqualification or recusal is entered, the case shall be reassigned in the court where pending in seriatim order to a senior judge assigned to the Court or to one of the following judge from a contiguous county:

- The presiding judge of Wells Circuit Court (for cases originating in Wells Superior Court)
- The presiding judge of Wells Superior Court (for cases originating in Wells Circuit Court)
- The presiding judge of Adams Circuit Court
- The presiding judge of Adams Superior Court

- The presiding judge of Jay Circuit Court
- The presiding judge of Jay Superior Court
- The Presiding judge of Blackford Circuit Court
- The presiding judge of Blackford Superior Court
- The presiding judge of Grant Circuit Court
- The presiding judge of Grant Superior Court No. 1
- The presiding judge of Grant Superior Court No. 2
- The presiding judge of Grant Superior Court No. 3
- The presiding judge of Huntington Circuit Court
- The presiding judge of Huntington Superior Court
- The presiding judge of Allen Circuit Court
- The presiding judge of Allen Superior Court No.1
- The presiding judge of Allen Superior Court No. 2
- The presiding judge of Allen Superior Court No. 3
- The presiding judge of Allen Superior Court No. 4
- The presiding judge of Allen Superior Court No. 5
- The presiding judge of Allen Superior Court No. 6
- The presiding judge of Allen Superior Court No. 7
- The presiding judge of Allen Superior Court No. 8
- The presiding judge of Allen Superior Court No. 9

LR90-CR00-01

BAIL IN DOMESTIC VIOLENCE CASES FILED IN WELLS SUPERIOR COURT

Inasmuch as Article I, Section 17 of the Indiana Constitution provides that all criminal offenses other than murder or treason shall be bailable, the Wells Superior Court now establishes the following procedures and bond schedule for Domestic Violence Offenses filed in Wells Superior Court:

1. All prior orders of Wells Superior Court establishing bonds are hereby set aside insofar as they may be in conflict with this Rule.
2. For purposes of this Rule, Domestic Violence Offenses shall include the following:
 - a. Domestic Battery, as a Class D Felony or Class A Misdemeanor.
 - b. Battery of a spouse, intimate partner (as defined by 18 U.S. Code, sec. 2266) or a child as a Class D Felony or a Class A Misdemeanor.
 - c. Invasion of Privacy involving a spouse or intimate partner.
 - d. Stalking.
 - e. Telephone Harassment involving a spouse or intimate partner.
 - f. Residential Entry of a spouse's or intimate partner's residence.
3. The initial bond for the above listed Domestic Violence Offenses shall be \$25,000 and shall be posted by a surety or 100% cash. No ten percent cash bond shall be posted.

4. Unless, at the initial hearing of the Defendant or at a subsequent bond reduction hearing if one is held, the alleged victim of the offense is present or there is proof that the alleged victim has been notified of the hearing and unless the State provided at such hearing clear and convincing evidence that the Defendant poses a risk to the physical safety of another person or the community (I.C. 35-33-8-5) the Court shall, upon request of the Defendant, reduce the Defendant's bond to the amount the Court's standard bond schedule requires for the class of offense had it not been a Domestic Violence Offense. The Court may also add additional conditions of release to the bond, including, but not limited to:

- a. Anger management counseling.
- b. Substance abuse counseling.
- c. Electronic monitoring.
- d. GPS tracking.
- e. Juris monitors.
- f. No contact or no violent contact protective order.
- g. Prohibition of possession of firearms.
- h. Periodic reporting to a probation officer

5. In determining whether, or to what extent, the Defendant's bond should be reduced; the Court may consider one or more of the following factors:

- a. Any history of domestic violence as documented by police reports and/or convictions.
- b. Whether the frequency or severity of violence appears to be escalating.
- c. Threats of retaliation either directly toward the victim or indirectly toward the children.
- d. Use or threatened use of a weapon.
- e. Defendant's prior criminal history.
- f. Danger posed to the public, including threats to victim's family or co-workers.
- g. Defendant's alleged use or possession of alcohol or a controlled substance.
- h. Defendant's access to the victim.
- i. Defendant's mental and physical health.
- j. Defendant's threats of suicide.

LR90-CR00-02

BAIL BOND SCHEDULE FOR WELLS SUPERIOR COURT

(A) In all criminal cases filed in Wells Superior Court except Domestic Violence Offenses as defined in LR90-CR00-01, a defendant who has not failed to appear in the past may execute a bail bond by depositing cash in an amount equal to ten percent (10%) of the aggregate bond. In such case, the following conditions shall apply to said bond:

1. An administrative fee of ten percent (10%) or fifty dollars (\$50), whichever is less, shall be retained by the Clerk and deposited in the general fund of Wells County, Indiana;
2. The bond must be posted in the name of the defendant;
3. The bond is considered a personal asset of the defendant; and
4. Upon conviction, the bond shall be available for payment of court costs, restitution, fine, court-ordered fees, and reimbursement of public defender fees to the county, in the above order of priority. Any balance remaining shall be refunded to the defendant.

(B) Except as provided in LR 90-CR00-02, in all criminal cases filed in Wells Superior Court bail is now fixed as follows:

Murder	only by leave of Court
Habitual Offender	\$50,000.00
Class A Felony	\$30,000.00
Class B Felony	\$20,000.00
Habitual D Felony Offender	\$15,000.00
Class C Felony	\$10,000.00
Class D Felony	\$5000.00
Class A Misdemeanor	\$1500.00
Class B Misdemeanor	\$1000.00
Class C Misdemeanor	\$500.00

(C) Anyone who is intoxicated at the time of incarceration should not be released until sober.

(D) In any case where cash bond is deposited, the receiving officer shall advise the person posting such bond of the above-stated conditions; however, failure to advise any such person of these conditions shall not constitute a waiver of said conditions.

(E) Upon issuance of a criminal bench warrant, the amount of bail specified in this rule shall be endorsed on the warrant.

(F) The Court may increase or diminish the amount of bond specified under this rule or permit the posting of a cash bond in lieu of accepting any property or surety bond as required by this rule in any justifiable case.

LR90-AR00-1

In all cases, regardless of type, to be heard in Wells Superior Court, if a party or counsel for a party does not appear within fifteen (15) minutes after the scheduled time for the commencement of any proceeding of which the party or counsel for the party had notice, the Court shall deem the party to have failed to appear. The Court shall note the failure to appear and shall grant whatever relief the Court deems reasonable and equitable, including but not limited to proceeding with trial, dismissal of an action, or ordering a bench warrant. A dismissal shall be without prejudice the first time but shall be with prejudice upon a second failure to appear by the complaining party or their counsel.

LR90-AR15-1

Pursuant to Rule 15 of the Administrative Rules of the Indiana Supreme Court, the Wells Circuit and Superior Courts do hereby adopt the following joint local rule:

A copy of this rule shall be certified to the Indiana Supreme Court and Court of Appeals. Copies of this rule shall be located in the Clerk's Office, the office of each court and on each court bench. A copy of this rule shall also be filed with the Division of State Court Administration.

Section One. Definitions. The following definitions shall apply under this rule:

(1) A Court Reporter is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(2) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.

(3) Work space means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

(4) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

(5) Recording means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(6) Regular hours worked means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

(7) Gap hours worked means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

(8) Overtime hours worked means those hours worked in excess of forty (40) hours per work week.

(9) Work week means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; e.g. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

(10) Court means the particular court for which the court reporter performs services. Court may also mean all of the courts in Wells County.

(11) County indigent transcript means a transcript that is paid for from county funds and is for use on behalf of a litigant who has been declared indigent by a court.

(12) State indigent transcript means a transcript that is paid for from state funds and is for use on behalf of a litigant who has been declared indigent by a court.

(13) Private transcript means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two. Salaries and Per Page Fees.

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours and overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be Four Dollars (\$4.00); the maximum per page fee a court reporter may charge for a copy of a county indigent transcript shall be Twenty-five Cents (\$0.25); the court reporter shall submit a claim directed to the county for the preparation or copying of any county indigent transcripts.

(3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be Four Dollars (\$4.00); the maximum per page fee a court reporter may charge for a copy of a state indigent transcript shall be One Dollar (\$1.00).

(4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Four Dollars (\$4.00); the maximum per page fee a court reporter may charge for a copy of a private transcript shall be One Dollar (\$1.00).

(5) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

Section Three. Private Practice.

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

(a) The reasonable market rate for the use of equipment, work space and supplies;

(b) The method by which records are to be kept for the use of equipment, work space and supplies; and

(c) The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

(2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

(3) A court reporter shall reimburse the county for the use of equipment, work space and supplies for the preparation of all private transcripts.

LR 90-JR2-01

**ESTABLISHING THE STATE "MASTER LIST FOR JURY POOL
ASSEMBLY" AS THE SOURCE OF JURORS**

The jury commissioner of the Wells Circuit Court and the jury commissioner of the Wells Superior Court shall compile the annual jury pool required by Indiana Jury Rule 2 by randomly selecting names from the Master List for Jury Pool Assembly provided by the Division of State Court Administration and as established by Order of the Indiana Supreme Court in Case No. 94S00-0501-MS-19 dated October 26, 2005.

LR 90-JR4-01

ESTABLISHING A TWO - TIER JURY NOTICE AND SUMMONS

The Wells Circuit Court and the Wells Superior Court hereby establish a two-tier jury notice and summons procedure pursuant to Rule 4 of the Indiana Jury Rules.

The Wells Circuit Court and the Wells Superior Court shall summon jurors under the two-tier notice and summons procedure set out in Rule 4(b) of the Indiana Jury Rules.

LR 90-FL00-1

Within sixty (60) days of the filing of an action for dissolution of marriage, legal separation or to establish paternity which involves one or more minor or unemancipated child Each party to such action shall attend and complete the **Families in Transition** program administered and presented by Family Centered Services, Inc., or such other program that the Court may, from time to time, designate. In all such cases the Court shall provide an information sheet that shall contain all necessary information for compliance with this rule. Each party shall pay the required fee for the program. A party who resides more than seventy-five (75) miles from the Wells County courthouse may apply for leave of the Court to complete a similar program nearer to his or her residence. Each party must file a certificate of attendance for each party with the Court before a final hearing may be held. A parent or putative parent who is incarcerated and ineligible for work release is exempt from Rule. A parent or putative parent who resides more that seventy-five (75) miles from the Wells County courthouse and has no similar program within seventy-five (75) miles of his or her residence may petition the Court for relief from this Rule.

Any exception to this rule shall only be granted by express order of the Court after a showing of good cause for such exception.

The Courts shall have full contempt powers, including incarceration, to enforce compliance with this Rule.

LR 90–FL00–02

In an action for dissolution of marriage, legal separation or to establish paternity, if child custody or visitation is to be contested at the final hearing, except for good cause shown the Court shall not allow the case to be submitted at final hearing until the parties have participated in private mediation with a mediator approved by the Court and the mediator submits to the Court a final report indicating that the parties have mediated in good faith and that the mediation process is completed.